

City of Waukesha
Department of Community Development
BOARD OF ZONING APPEALS
201 Delafield Street, Waukesha, WI 53188



NOTICE: The Board meets on the first Monday of every month at 4:00 p.m. in the upper level hearing room (207) at Waukesha City Hall. **ATTENDANCE OF THE APPLICANT OR A REPRESENTATIVE IS REQUIRED.** Failure to appear could result in the application being acted on without the applicant's input, or it could result in the item being removed from the agenda, requiring the applicant to reapply and pay another filing fee.

The appeal or application must be filed with the Community Development Department at least 17 days before the Board's meeting and within 20 days of the Zoning Inspector's order or decision, accompanied by the filing fee of **\$100.00**.

This application is for (choose one)
☒ A variance from section 22.58 (2)j.3. of the zoning code ☐ An appeal from the decision of the Zoning Inspector

For the property identified below:
Project Address: 1980 Jan Ave Waukesha 53188 Tax Key #: _____

Current Zoning: _____ Existing Use: _____

ATTACH DETAILED DESCRIPTION OF PROPOSAL including what is being requested, the rationale, and if a variance request, the facts and circumstances that satisfy the criteria for variance listed on the reverse of this form.

In order to be placed on the Board of Zoning Appeals agenda, the Community Development Department must receive the completed application, fee, project description, and a set of plans in PDF format by the applicable deadline. If this is an appeal from the decision of the Zoning Inspector, also attach a copy of the decision or order rendered by the Zoning Inspector and a statement of principal points on which the appeal is based. The Community Development Department - Planning Division should be consulted to assure an application is complete before being submitted.

SEE REVERSE FOR DEADLINES AND ADDITIONAL INFORMATION.

Applicant: (Person to receive notices)

Name: Gregory J Clark Jr

Address: 1980 Jan Ave

City & Zip: Waukesha 53188

Phone: 262 894 8932

E-mail: gclark@gmail.com

Owner of property:

Gregory J Clark / Kayla D Clark

1980 Jan Ave

Waukesha 53188

262 894 8932

gclark@gmail.com

I certify that the above statements and the statements contained in the materials submitted with this application are true and correct.


Applicant Signature

2/4/21
Date

PLEASE NOTE: THIS FORM MUST BE ACCOMPANIED BY A \$100.00 FILING FEE

For Internal Use Only

Amount Paid: <u>\$100 -</u>	Check # <u>01000</u>	Received by: <u>ma</u>
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February 3, 2021

City of Waukesha
Department of Community Development
Board of Zoning Appeals
201 Delafield Street
Waukesha, WI 53188

RE: Variance Application regarding 1980 Jan Ave, Waukesha, WI 53188, zoning code 22.58

To Board of Zoning Appeals:

My wife and I, Kayla and Greg Clark, are the owners of the residence at 1980 Jan Ave, Waukesha, WI 53188. We are seeking out a variance approval for our existing fence to be allowed to stay in place in the street side yard. Our house is on the Northeast corner of Jan Ave and Western Ave.

When we purchased our house in 2004, there was a fence that was installed to the westside corner of our house. At the time, we had two small children and our backyard was not feasible for our kids to use. We now have three children. The yard was too small and backed up to our neighbor's yard which is only about 30 feet from our backyard. Our side yard only consists of about 30 feet of space from the street. We have attached pictures for your review.

Our children would then go into the street side yard and this posed a problem due to the traffic on Western Ave. Due to safety concerns, we expanded our fence in 2008 to the street side yard. At the time, we talked with our neighbors and they gave us verbal approval. We did not need a permit, so at that time I did not investigate if there were other ordinances in place. The fence is 6 feet tall and is a shadow box configuration.

Then in 2019, we re-built that fence because the old one was rotting. Again, we talked to our neighbors and they gave us verbal approval. Again, we were not required to get a permit and I did not investigate if there were ordinances for installing a fence. I was given some verbal guidance that it needs to be 6 feet tall and that the supports of the fence need to be facing the yard side.

The final reason we are seeking approval is because a complaint was filed against us from someone that doesn't even live next to us or even in our neighborhood. We have attached signed letters. We are seeking a variance approval based on the detailed points listed in the following attachment. We have tried to follow the criteria set by this Board of Zoning Appeals.

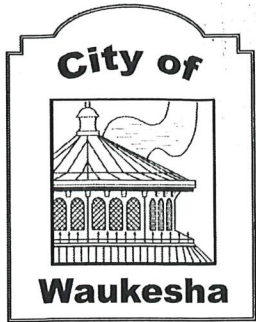
Sincerely,



Gregory I. Clark Jr
Kayla D. Clark
1980 Jan Ave
Waukesha, WI 53188
262-894-8932

Variance Appeal Principal Points

1. The special circumstances that apply only to our property is that we live on the corner of Western Ave and Jan Ave. Our side yard is adjacent to Western Ave which poses a problem with our children in our yard. There is no stop sign at the corner and cars speed through our neighborhood. We originally built the fence to keep our children out of the street and keep their toys from also going in the street. Our back yard is approximately 36 feet from our house to our neighbor's yard, the area was not big enough for our 3 kids to play in and they always wanted to go in the street side yard. This prompted us to expand the fence into the street side yard.
2. Our neighbors have back yards that are 2-3 times larger than our back yard. They have space for their kids, friends and neighbors to play and enjoy. Along with keeping them safe from going out in the street. When we look out our back window, we can see directly into our neighbor's bedrooms, giving an example how close we are. Our yard is substantially smaller due to the configuration of being a corner house in our neighborhood.
3. This variance is not requested on the economic loss/gain. This is solely based on the facts that we have had the fence in place since 2008 and then rebuilt in 2019. We have had no issues or complaints for over 12 years. The fence was rotting and falling down, so we replaced the existing fence. We have 3 children that would utilize the street side yard and we wanted to keep them safe from the traffic and their toys from going into the street.
4. This hardship is created because we live on the corner of Jan Ave and Western Ave. There is no stop sign at this corner. There is a stop sign to the North at Sheryl Ave and Western Ave. Once cars pass through that stop sign going South, they speed down the street until the next stop sign 3 blocks down on Western Ave and Michigan Ave. Also, there is very room between the corner of our house and the street. As with our back yard, there is only about 40 feet from the corner of our house to the street.
5. We believe the intent of the zoning ordinance is because of line of sight for traffic. As you will see in the pictures attached and the letters from our neighbors, there is no issue with the line of sight for traffic on either Jan Ave or Western Ave. You have clear vision of oncoming traffic, people using the cross walk, or someone riding their bike. The fence is set back enough from the corner to work within the existing zoning rules and not undermine them for any reason.
6. If we were not granted a variance, we would then move the fence back to the West corner of the house. This would substantially limit the space our kids and family could utilize. We would not be able to use the street side yard at all. And would cause issues for us if the kids wanted to play in the side yard to expand their use of your yard.



COMMUNITY DEVELOPMENT

201 DELAFIELD STREET
WAUKESHA, WISCONSIN 53188-3633
TELEPHONE 262/524-3750 FAX 262/524-3751

- 2004

- Replacing existing fence

Feb 5th

January 19, 2021 → 20 days

GREGORY J & KAYLA D CLARK JR
1980 JAN AV
WAUKESHA, WI 53188

Re: 1980 JAN AVE - Case #CE21-00021

Dear GREGORY J & KAYLA D CLARK JR:

This office has received a complaint regarding the condition of your above stated property. During a recent inspection, the following violations were found:

22.58(2)j.3. FENCES, 6 FT, NO STR YD:

Solid Fences are permitted in residential zoning districts, subject to the following rules: They shall not exceed a height of 6 feet; they are permitted in side and rear yards; and they are not permitted in street yards, except that they may extend on or parallel to the lot line into the street yard, no farther than the line of the adjacent property's street yard.

The 6 foot high privacy fence on your property illegally extends into the street side yard. You are hereby ordered to make the fence compliant (4 foot high with 50% opacity in the front/street side yard) or remove within 45 days from the date of this notice.

-pose any questions to Inspector Dama for assistance-

"street" yard fence of Western Avenue

An inspector shall return to your property after the deadline given in these Orders to determine whether the property has been returned to compliance with the Code. If the inspector determines the Code violation has not been corrected, a \$75 fee shall be charged against the property for the first re-inspection, \$150 shall be charged for the second and any subsequent re-inspections. Any such fees shall be charged against the real estate upon which the re-inspections were made, shall be a lien on the real estate, and shall be assessed and collected as a special charge. Additional enforcement action may also be taken such as issuing citations or filing a law suit.

If you have any questions, please contact this office.

Sincerely,

MATTHEW DAMA
Property Maintenance Inspector
MDama@waukesha-wi.gov

(262) 524-3532





- Original Fence Installed June 2008



Western Ave

2/4/2021

12/4/21



12/15/12



Western Ave
Traffic Sight Lines





Jan Ave
Traffic Sight Lines

February 4, 2021

City of Waukesha
Department of Community Development
Board of Zoning Appeals
201 Delafield Street
Waukesha, WI 53188

RE: Variance Application regarding 1980 Jan Ave, zoning code 22.58

To Whom It May Concern:

We are neighbors to Greg & Kayla Clark, 1980 Jan Ave, Waukesha, WI 53188. They have had a fence in their yard that crosses into the street yard. This fence has been in place since June 2008 and then replaced this fence in July 2019. I/we have no objection to this fence and it poses no issues with our yards. We do not object to the fence going past the façade of our house. This fence is aesthetically pleasing and provides privacy to our yard as well.

We are in favor of having this fence stay in place and would not object to the approval of a variance for this structure.

Sincerely,

A handwritten signature in black ink, appearing to read 'J. LaValle', with a stylized, flowing script.

Name: Jessie J. LaValle

Address:
1974 Jan Ave.
Waukesha, WI 53188

February 4, 2021

City of Waukesha
Department of Community Development
Board of Zoning Appeals
201 Delafield Street
Waukesha, WI 53188

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We are in favor of having this fence stay in place and would not object to the approval of a variance for this structure.

Sincerely,

A handwritten signature in black ink, reading "Daniel J. Kuhry". The signature is fluid and cursive, with a long horizontal stroke at the end.

Name: DANIEL J. KUHRY

Address: 357 WESTERN AVE.
WAUKESHA, WI 53188

February 4, 2021

City of Waukesha
Department of Community Development
Board of Zoning Appeals
201 Delafield Street
Waukesha, WI 53188

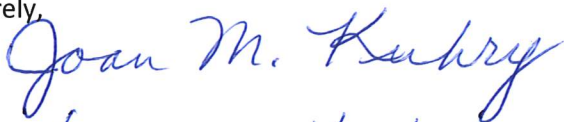
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We are in favor of having this fence stay in place and would not object to the approval of a variance for this structure.

Sincerely,



Name: Joan M. Kuhry

Address: 357 Western Ave.
Waukesha, WI 53188